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BEFORE THE PUBLIC UTILITIES COMMISSION
AND THE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emission Standards into Procurement Policies.	Rulemaking 06-04-009 (Filed April 13, 2006)
Order Instituting Informational Proceeding – AB 32.	CEC Docket No. 07-OIIP-01

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY SUPPLEMENTAL REPLY COMMENT ON ALLOWANCE ALLOCATION ISSUES

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Attorney for the **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

Dated: December 7, 2007

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In accordance with the Administrative Law Judge ("ALJ") TerKeurst's e-mail ruling dated November 8, 2007, and the Administrative Law Judges' Ruling Extending Comment Dates and Addressing Procedural Matters ("Extension Ruling") dated November 30, 2007, the Southern California Public Power Authority ("SCPPA") respectfully submits this supplemental reply comment on allowance allocation issues. This supplemental reply comment responds to supplemental opening comments that were filed on November 14, 2007, pursuant to ALJ TerKeurst's November 8, 2007 e-mail ruling.

Besides SCPPA, the only party to submit supplemental opening comments that were designated as being "supplemental opening comments" was Pacific Gas and Electric Company ("PG&E"). Additionally, the South Coast Air Quality Management District ("SCAQMD") filed

what it designated as being "comments" on November 16, 2007. Presumably, those were late-filed supplemental opening comments. SCPPA now responds to PG&E and SCAQMD.

I. PG&E MISCONTURES SCPPA'S POSITION.

PG&E suggests that SCPPA contends that "the customers of lower-emitting utilities, such as PG&E, are better able to 'afford' the costs of GHG reductions better than the customers of higher-emitting utilities, such as LADWP and SCPPA." PG&E Supp. Opening Comment at 21-23. PG&E misstates SCPPA's position. SCPPA has not contended that any given utility's customers can "better afford" GHG reduction than others.

Instead, SCPPA's position is that the California Public Utilities Commission ("CPUC") and the California Energy Commission ("CEC") (jointly, "Commissions") should recommend to the California Air Resources Board ("CARB") an allowance allocation methodology that will enable utilities to focus their resources on activities that will result in concrete greenhouse gas ("GHG") reductions, *not* a methodology which counterproductively redirects resources to buying allowances. Further, SCPPA has advocated that the Commissions should not recommend a methodology that would result in wealth transfers from some utilities to others, as would occur under PG&E's proposal to allocate allowances among retail providers on the basis of retail sales. *See* SCPPA Supp. Opening Comment at 1-7. Accordingly, SCPPA has consistently supported an allocation of allowances to regulated retail providers for the benefit of the retail providers' customers on the basis of recent pre-AB 32 emissions, with the amount of allowances that are allocated being reduced proportionately over time.

II. PG&E'S SUGGESTION THAT GLOBAL WARMING PROBLEMS WERE WELL KNOWN IN THE 1970s IS WRONG.

PG&E presents quoted material from a recent Supreme Court purporting to show that the "risk of greenhouse gas emissions…were identified and acknowledged by public policymakers

and others" as early as the late 1970s. PG&E Supp. Opening Comment at 21-23. The implication is that utilities should have known about global warming when they were contracting for coal plants in the 1970s. In fact, global warming was neither well-known nor widely acknowledged in the 1970s. By contrast to PG&E, the Natural Resources Defense Counsel and the Union of Concerned Scientists ("NRDC/UCS") contend more reasonably that the "threat of global warming has been known" for "over 15 years," pointing to an Intergovernmental Panel on Climate Change report dated 1990. NRDC/UCS Reply Comment at 5 (Nov. 14, 2007). That was long after SCPPA members contracted for the Intermountain Power Project coal plant.

III. PG&E'S ANALYSIS OF THE NUMBER OF ALLOWANCES THAT CALIFORNIA WOULD GET UNDER A NATIONAL PROGRAM IS MISPLACED AND SHOWS THE INEQUITY OF AN ALLOCATION OF ALLOWANCES THAT IS BASED ON RETAIL SALES INSTEAD OF EMISSIONS.

PG&E presents an analysis purportedly showing that if there were a nation-wide GHG emission reduction program, California entities would get more allowances if allowances were administratively allocated on the basis of retail providers' "recorded sales" rather than generators' emissions. PG&E Supp. Opening Comment at 21-23. The apparent suggestion is that the Commissions should recommend to CARB an allocation methodology which would maximize California's receipt of administratively allocated allowances under a national program. SCPPA disagrees.

The lodestar of the Commissions' allowance allocation policy should not be maximizing California's receipt of allowances under a supposed national program. Instead, the Commissions' selection of an allowance allocation methodology should be guided by paramount principles, chief of which should be attaining AB 32 mandated GHG emission reduction goals, fairness, and cost-effectiveness. *See* SCPPA Opening Comment on Point of Reg. Issues at 9-14 (Dec. 3, 2007).

The PG&E analysis is a further illustration of the inequity of allocating allowances on the basis of retail sales rather than emissions. California's greenhouse emissions per capita are one of the lowest in the United States. 2007 Integrated Energy Policy Report at 7 (Nov. 2007). In 2001, California ranked fourth lowest in CO2 emissions per capita and fifth lowest in CO2 emissions per unit of gross state product. *Ibid.* California would get fewer allowances under a national administrative allocation of allowances because California does not have as far to go as many other states. Those states will have to do much more to attain the same percentage reduction in emissions as would be achieved by California. Allocating allowances on the basis of emissions would allow those states to focus their resources on addressing their substantially greater burden of reducing GHG emissions.

IV. THE SCAQMD COMMENT IS A HELPFUL ADDITION TO THE RECORD.

Although, as discussed above, SCPPA is unsure about the procedural status of the SCAQMD Comment, it is a helpful addition to the record in this proceeding. Through its Comment, SCAQMD submits a "paper" entitled "Over a Dozen Years of RECLAIM Implementation: Key Lessons Learned in California's First Air Pollution Cap-and-Trade Program" ("SCAQMD Paper") and dated June 2007.

The SCAQMD Paper presents a helpful description of the SCAQMD's RECLAIM program under the Clean Air Act. The features of SCAQMD's regulation of NOx and SOx under the Clean Air Act and the features of the GHG emission reduction program envisioned by the CPUC under D.06-02-032 (Feb. 16, 2006) are similar. *See* SCPPA Opening Comment at 2-6 (Oct. 31, 2007), SCPPA Reply Comment at 8-9 (Nov. 14, 2007).

Each facility that is subject to SCAQMD's program is allocated "specific annual emissions caps" that decline over time. SCAQMD Paper at I-2-1. SCAQMD's "specific annual

emissions caps" are similar to the allowance levels that would be established and then decline over time under the CPUC's envisioned program.

Under SCAQMD regulation, the allocations that are the basis for each facility's caps are based on "recent past peak actual emissions". Similarly, the CPUC envisioned an allocation of allowances to retail providers on the basis of recent historical emissions.

The cap-and-trade feature of the RECLAIM program provides each regulated facility with some flexibility in meeting its annual cap in the interest of achieving the pollution reduction goals at a lower cost:

> [E]ach facility has the flexibility to design its best approach to meeting their declining emission cap, rather than reacting to specific command-and-control rules. The 'incentive' portion of the program involves trading RTCs. RTCs are valid for one year, and expire after a 60 day year-end reconciliation period. Any facility that emits or will emit less than its cap in a given year may sell the extra credits. A facility that needs to increase production, add equipment, or needs more time to add control equipment may buy credits on the market.

Ibid. Similarly, the CPUC envisioned trading under a cap-and-trade program as a "flexible compliance mechanism" that could reduce costs of GHG emission reduction by retail providers.

SCPPA supports development of a program that builds on SCAQMD's experience with RECLAIM as envisioned by the CPUC. Accordingly, SCPPA supports receipt of the SCAQMD Paper into the record as a helpful addition.

V. CONCLUSION.

SCPPA recommends that the Commissions build upon the foundation laid by the CPUC in D.06-02-032 and the SCAQMD's experience with RECLAIM. GHG emission allowances should be administratively allocated to regulated retail providers as the points of regulation in the electric sector for the benefit of the retail providers' customers. The allocation should be based upon recent pre-AB 32 actually experienced emissions, with the amount of allowances that are

allocated to each retail provider for each successive compliance period being reduced proportionally over time as necessary to achieve the AB 32 GHG reduction goals for the electric sector and for each retail provider by 2020.

Respectfully submitted,

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Attorney for the **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

Dated: December 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY SUPPLEMENTAL REPLY COMMENT ON ALLOWANCE ALLOCATION ISSUES** on the service list for CPUC Docket No. R.06-04-009 and CEC Docket No. 07-OIIP-01 by serving a copy to each party by electronic mail and/or by mailing a properly addressed copy by first-class mail with postage prepaid.

Executed on December 7, 2007, at Los Angeles, California.

/s/ Veronica Hakopian

Veronica Hakopian

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